

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

MARK SPANIER, Individually and on behalf of all others similarly situated,

Plaintiff,

v.

BAYERISCHE MOTOREN WERKE AKTIENGESELLSCHAFT, BMW (US) HOLDING CORP., OLIVER ZIPSE, HARALD KRÜGER, NORBERT REITHOFER, BERNHARD KUHNT, NICOLAS PETER, and LUDWIG WILLISCH

Defendants.

No.: 2:20-cv-15081-CCC-MF

**ORDER APPOINTING LEAD PLAINTIFF AND APPROVING LEAD COUNSEL**

**CLASS ACTION**

WHEREAS, the above-captioned securities class action has been filed against Bayerische Motoren Werke Aktiengesellschaft, et al. (“Defendants”) alleging claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder;

WHEREAS, pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(3)(A)(i), on October 27, 2020, a notice was issued to potential class members of the action informing them of their right to move to serve as lead plaintiff within 60 days of the date of the issuance of said notice;

WHEREAS, on December 28, 2020, plaintiff Mark Spanier (“Movant”) timely

moved the Court for appointment as lead plaintiff and to approve his selection of counsel (ECF No. 11);

WHEREAS, the PSLRA, provides, *inter alia*, that the most-adequate plaintiff to serve as lead plaintiff is the person or group of persons that has either filed a complaint or has made a motion in response to a notice, and has the largest financial interest in the relief sought by the Class and satisfies the pertinent requirements of Fed. R. Civ. P. 23; and

WHEREAS, the Court finding that Movant has the largest financial interest in this action and *prima facie* satisfies the typicality and adequacy requirements of Fed. R. Civ. P. 23. See 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I);

**IT IS HEREBY ORDERED THAT:**

**APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL**

1. Pursuant to Section 21D(a)(3)(B) of the Exchange Act, 15 U.S.C. § 78u-4(a)(3)(B), Movant is appointed as Lead Plaintiff of the class, as Movant has the largest financial interest in this litigation and otherwise satisfies the requirements of Fed. R. Civ. P. 23. Plaintiff's motion to appoint lead plaintiff and approve lead plaintiff's section of counsel (ECF No. 11) is therefore **GRANTED**.

2. Movant's choice of counsel is approved, and accordingly, The Rosen Law Firm, P.A. is appointed as Lead Counsel.

3. Lead Counsel, after being appointed by the Court, shall manage the

prosecution of this litigation. Lead Counsel is to avoid duplicative or unproductive activities and is hereby vested by the Court with the responsibilities that include, without limitation, the following: (1) to prepare all pleadings; (2) to direct and coordinate the briefing and arguing of motions in accordance with the schedules set by the orders and rules of this Court; (3) to initiate and direct discovery; (4) to prepare the case for trial; and (5) to engage in settlement negotiations on behalf of Lead Plaintiff and the Class.

SO ORDERED:

Dated July 22, 2021



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HONORABLE CLAIRE C. CECCHI  
U.S. DISTRICT JUDGE